

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
FAIR HOUSING OF THE DAKOTAS,)	
)	
Plaintiff-Intervenor,)	
v.)	Civil Action No. 09-cv-4059
)	
EQUITY HOMES, INC., PBR, LLC, BBR, LLC,)	
SHANE HARTUNG d/b/a/ HARTUNG DESIGN,)	
SCOTT SNOOZY, MYRON R. VAN BUSKIRK,)	
WAYNE HANSEN, as Trustee of the HANSEN)	
FAMILY TRUST AGREEMENT, MARTIN)	
MCGEE , as Trustee of the MARTIN H. MCGEE)	
TRUST, and SERTOMA HILLS VILLAS)	
ASSOCIATION,)	
)	
Defendants.)	
)	

JOINT MOTION FOR ENTRY OF PARTIAL CONSENT ORDER

Plaintiffs United States and Fair Housing of the Dakotas (“FHD”), as well as Defendants Equity Homes, Inc., BBR, LLC, and Martin McGee, as Trustee of the Martin H. McGee Trust, hereby request that the Court enter the Proposed Second Partial Consent Order, attached as Exhibit 1, resolving the remaining claims brought by Plaintiffs United States and FHD in the above referenced litigation.

In this case the United States and FHD alleged that Defendants Equity Homes, Inc., PBR, LLC, BBR, LLC, and Shane Hartung d/b/a Hartung Design (“FHA Defendants”) violated the Fair Housing Act by failing to design and construct six apartment complexes in Sioux Falls, South Dakota with the accessibility features required by the statute. In their complaints, the

United States and FHD sought equitable relief and monetary damages against the FHA Defendants. In addition, the United States and FHD named as necessary parties for complete relief the current owners of five of these properties, Scott Snoozy, Myron R. Van Buskirk, Wayne Hansen as Trustee of the Hansen Family Trust Agreement, Martin McGee as Trustee of the Martin H. McGee Trust, and Sertoma Hills Villas Association (“Owner Defendants”). The United States and FHD did not allege that these Owner Defendants had violated the Fair Housing Act and did not seek monetary damages against them. The United States and FHD sought equitable relief requiring the Owner Defendants allow access to the properties so that the FHA Defendants could complete the retrofits.

On July 20, 2011, the Court entered a Partial Consent Decree that resolved the United States’ and FHD’s claims for monetary relief against the FHA Defendants. See July 20, 2011 Partial Consent Decree (Docket No. 90). The July 20, 2011 Partial Consent Decree also resolved the claims of the United States and FHD for equitable relief with respect to four of six the complexes at issue in this case, East Briar Estates, West Briar Estates, Kensington Apartments, and Sertoma Hills Villas. Because another property, Beverly Gardens Apartments, was already subject to equitable relief under a conciliation agreement with the current owner of that property, the United States and FHD are not seeking additional equitable relief with respect to that property.

The Proposed Second Partial Consent Order, attached as Exhibit 1, resolves the remaining claims in this case. Specifically, the Proposed Second Partial Consent Order resolves the claims for equitable relief by Plaintiffs United States and FHD with respect to the design and construction of Sertoma Hills Apartments.

Sertoma Hills Apartments is owned by Martin McGee, as Trustee of the Martin H. McGee Trust. McGee has also agreed to the entry of the Proposed Second Partial Consent Order.

Respectfully submitted this 27th day of October 2011.

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Filed: October 27, 2011

Filed with the consent of the following parties pursuant to Local Rule 5.4 :

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Filed: October 27, 2011

CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2011, I filed the foregoing document entitled Joint Motion for Entry of Second Partial Consent Order via the Court's CM/ECF system, which shall send notice via electronic mail to the following counsel of record:

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I hereby certify that on October 27, 2011, I sent a copy of the foregoing document by United States mail to:

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/S/ DANIEL H. YI _____

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